
PRELIMINARY DRAFT

No. 3305

PREPARED BY LEGISLATIVE SERVICES AGENCY 2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-7-2; IC 12-21; IC 12-22-4; IC 12-23-18-5.7; IC 12-24.

Synopsis: Mental health issues. Renames the "mental health and addiction advisory council" the "mental health and addiction planning and advisory council" and adds members to consolidate the current council with a body required by federal law. Repeals provisions concerning terms of appointed members and repeals a provision that applies general rules for family and social services administration bodies to the planning and advisory council. Removes a provision under which lay members of the commission on mental health and addiction are ineligible for per diem or traveling expenses. Provides that superintendents of state hospitals serve at the will of the director of the division on mental health and addiction and not for a term of four years. Removes provisions requiring bonds for superintendents of state operated facilities. Gives the director of the division on mental health and addiction instead of the superintendent of each hospital the authority to regulate smoking at state hospitals. Repeals obsolete provisions concerning: (1) the dawn project; (2) the biennial opioid report; (3) the closing of Central State Hospital; (4) mandated bond requirements for superintendents of state hospitals; and (5) the definition of "maintain". Makes conforming changes.

Effective: Upon passage; July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-55.1 IS REPEALED [EFFECTIVE JULY
2 1, 2012]. ~~Sec. 55.1. "Dawn project", for purposes of IC 12-22-4, has the~~
3 ~~meaning set forth in IC 12-22-4-1.~~

4 SECTION 2. IC 12-7-2-126.1 IS REPEALED [EFFECTIVE JULY
5 1, 2012]. ~~Sec. 126.1. "Maintain", for purposes of IC 12-21-2-3, and~~
6 ~~IC 12-24-1-7, means that the funding of appropriate placements and~~
7 ~~services must be continued after the placements and services are~~
8 ~~created.~~

9 SECTION 3. IC 12-21-1-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The division is
11 composed of the following:

12 (1) The director.

13 (2) The division of mental health and addiction **planning and**
14 advisory council.

15 (3) Other personnel necessary for the performance of the
16 functions imposed upon the division under law.

17 SECTION 4. IC 12-21-4-1 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this
19 chapter, "council" refers to the division of mental health and addiction
20 **planning and** advisory council established by this chapter.

21 SECTION 5. IC 12-21-4-2 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The division of
23 mental health and addiction **planning and** advisory council is
24 established. **Any reference in statute or rule to the "mental health**
25 **and addiction advisory council" is a reference to the mental health**
26 **and addiction planning and advisory council.**

27 SECTION 6. IC 12-21-4-3 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The council consists
29 of the following ~~eleven (11)~~ **twenty-nine (29)** members, **not less than**
30 **fifty percent (50%) of whom must be individuals who are not state**
31 **employees or providers of mental health services:**



- (1) The director.
- (2) The superintendent of the department of public instruction or the superintendent's designee.
- (3) The director of the office of Medicaid policy and planning, or the director's designee.
- (4) The director of the bureau of rehabilitation services.
- (5) The executive director of the Indiana housing and community development authority created by IC 5-20-1-3 or the executive director's designee.
- (6) The director of the criminal justice institute or the director's designee.
- (7) The director of the department of child services or the director's designee.
- (2) ~~Ten (10)~~ (8) Twenty-two (22) individuals who:
 - (A) are appointed by the secretary; and
 - (B) ~~who~~ have a recognized knowledge of or interest in the programs administered by the division, **including representatives of parents of children with serious emotional disturbances;**
 - (C) are appointed for a term of four (4) years; and
 - (D) serve until a successor is appointed.

SECTION 7. IC 12-21-4-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 4: Each member of the council appointed under section 3(2) of this chapter has a fixed term as provided in IC 12-8-2-4.~~

SECTION 8. IC 12-21-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The director serves as ~~presiding officer~~ **chairperson** of the council **at the first meeting of the council held after July 1 of each year. At the first meeting of the council after July 1 of each year, the director may appoint a chairperson of the council from among the members of the council for a term of one (1) year.**

SECTION 9. IC 12-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. The council shall meet at least ~~monthly~~ **quarterly** and is subject to special meetings at the call of the ~~presiding officer~~ **chairperson.**

SECTION 10. IC 12-21-4-7 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 7: IC 12-8-2 applies to the council.~~

SECTION 11. IC 12-21-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. **(a) This section applies to a member of the council who is appointed under IC 12-21-4-3(8).**

(b) Notwithstanding IC 12-21-4-3(8)(C), for the appointments made in 2012, eleven (11) members shall be appointed for a term of four (4) years, and eleven (11) members shall be appointed for a term of three (3) years.

SECTION 12. IC 12-21-4-9 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2012]: **Sec. 9. An individual serving on the council under**
3 **IC 12-21-4-3(1) through IC 12-21-4-3(7) shall serve until the**
4 **individual no longer holds the individual's office described in**
5 **IC 12-21-4-3(1) through IC 12-21-4-3(7). The appointing authority**
6 **for an individual serving on the council under IC 12-21-4-3(1)**
7 **through IC 12-21-4-3(7) shall appoint a replacement for an**
8 **appointee who ceases to be a member.**

9 SECTION 13. IC 12-21-4-10 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2012]: **Sec. 10. All members of the council**
12 **are voting members. A majority of the members constitutes a**
13 **quorum. The affirmative vote of a majority of the members is**
14 **required for the council to take any action.**

15 SECTION 14. IC 12-21-4-11 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2012]: **Sec. 11. Each member of the council**
18 **who is not a state employee is not entitled to the minimum salary**
19 **per diem provided by IC 4-10-11-2.1(b). The member is, however,**
20 **entitled to reimbursement for traveling expenses as provided under**
21 **IC 4-13-1-4 and other expenses actually incurred in connection**
22 **with the member's duties as provided in the state policies and**
23 **procedures established by the Indiana department of**
24 **administration and approved by the budget agency.**

25 SECTION 15. IC 12-21-6.5-6, AS AMENDED BY P.L.143-2011,
26 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 UPON PASSAGE]: **Sec. 6. (a) Except as provided in subsection (b),**
28 **The commission shall operate under the policies governing study**
29 **committees adopted by the legislative council.**

30 **(b) The members appointed under section 3(2) of this chapter shall**
31 **serve without receiving per diem or traveling expenses.**

32 SECTION 16. IC 12-22-4 IS REPEALED [EFFECTIVE JULY 1,
33 2012]. (Dawn Project).

34 SECTION 17. IC 12-23-18-5.7 IS REPEALED [EFFECTIVE JULY
35 1, 2012]. **Sec. 5-7: (a) The division shall, as part of the biennial report**
36 **required under IC 12-21-5-1.5(8), prepare and submit to the legislative**
37 **council in an electronic format under IC 5-14-6, the state department**
38 **of health, and the governor a report concerning treatment offered by**
39 **opioid treatment programs. The report must contain the following**
40 **information for each of the two (2) previous calendar years:**

41 **(1) The number of opioid treatment programs in Indiana;**

42 **(2) The number of patients receiving opioid treatment in Indiana;**

43 **(3) The length of time each patient received opioid treatment and**
44 **the average length of time all patients received opioid treatment;**

45 **(4) The cost of each patient's opioid treatment and the average**
46 **cost of opioid treatment.**



(5) The number of patients who were determined to be no longer in need of services and are no longer receiving opioid treatment.

(6) The number of individuals, by geographic area, who are on a waiting list to receive opioid treatment.

(7) The patient information reported to the central registry established under section 5.6 of this chapter.

(8) Any other information that the division determines to be relevant to the success of a quality opioid treatment program.

(9) The number of patients who tested positive under a test for a controlled substance or illegal drug not allowed under section 2.5(b) of this chapter.

(b) Each opioid treatment program in Indiana shall provide information requested by the division for the report required by this section.

(c) Failure of an opioid treatment program to submit the information required under subsection (a) may result in suspension or termination of the opioid treatment program's specific approval to operate as an opioid treatment program or the opioid treatment facility's certification.

(d) Information that could be used to identify an opioid treatment program patient and that is:

(1) contained in; or

(2) provided to the division related to;

the report required by this section is confidential.

SECTION 18. IC 12-24-1-7 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 7: (a) During the closing of Central State Hospital; and after the institution is closed; the division of mental health and addiction shall secure, maintain, and fund appropriate long term inpatient beds for individuals who have been determined by a community mental health center to:

(1) have a chronic and persistent mental disorder or chronic addictive disorder; and

(2) be in need of care that meets the following criteria:

(A) Twenty-four (24) hour supervision of a patient is available.

(B) A patient receives:

(i) active treatment as appropriate for a chronic and persistent mental disorder or chronic addictive disorder;

(ii) case management services from a state approved provider; and

(iii) maintenance of care under the direction of a physician.

(C) Crisis care.

(b) An individual placed in a long term inpatient bed under this section shall receive at least the care described in subsection (a)(2)(A) through (a)(2)(C).

(c) The number of long term inpatient beds that must be secured, maintained, and funded under subsection (a) must satisfy both of the



following:

(1) The number of long term inpatient beds in the county where the hospital was located may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the county where the hospital was located.

(2) The total number of long term inpatient beds may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the catchment area served by Central State Hospital. The division may reduce the total number of long term inpatient beds required by this subdivision whenever the division determines that caseloads justify a reduction. However:

(A) the total number of long term inpatient beds may not be reduced below the number required by subdivision (1); and

(B) the number of long term inpatient beds in the county where the hospital was located may not be reduced below the number required by subdivision (1).

(d) The division is not required to secure, maintain, and fund long term inpatient beds under this section that exceed the number of individuals who have been determined by a community mental health center to be in need of inpatient care under subsection (a). However, subject to the limitations of subsection (c), the division shall at all times retain the ability to secure, maintain, and fund long term inpatient beds for individuals who satisfy the criteria in subsection (a) as determined by the community mental health centers.

(e) An individual may not be placed in a long term inpatient bed under this section at Larue D. Carter Memorial Hospital if the placement adversely affects the research and teaching mission of the hospital.

(f) Notwithstanding any other law, the director of the division of mental health and addiction may not terminate normal patient care or other operations at Central State Hospital unless the division has developed a plan to comply with this section. Before closing Central State Hospital, the director shall submit a report in an electronic format under IC 5-14-6 to the legislative council containing the following information:

(1) The plans the division has made and implemented to comply with this section.

(2) The disposition of patients made and to be made from July 1, 1993, to the estimated date of closing of Central State Hospital.

(3) Other information the director considers relevant.

SECTION 19. IC 12-24-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Except as provided in subsection (b), a A superintendent serves a term of four (4) years: **at the pleasure of the director.**

(b) Subject to the approval of the governor, the director may remove a superintendent at any time.



1 SECTION 20. IC 12-24-2-6 IS REPEALED [EFFECTIVE JULY 1,
2 2012]. ~~Sec. 6: A superintendent shall furnish a bond as required by~~
3 ~~IC 12-24-3-3.~~

4 SECTION 21. IC 12-24-2-8 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Notwithstanding
6 IC 12-27-3-3, the ~~superintendent of a state institution~~ **director** has
7 complete authority to regulate smoking (as defined in IC 16-41-37-3)
8 within ~~the a~~ state institution.

9 (b) A physician licensed under IC 25-22.5 may prescribe nicotine
10 as is medically necessary for a resident of a state institution.

11 SECTION 22. IC 12-24-3-3 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2012] : Sec. 3. (a) As used in this
13 section, "employee" includes the superintendent of an institution.

14 (b) The director may require an employee of a state institution to
15 furnish a bond in an amount determined by the director. ~~The director~~
16 ~~shall require a superintendent to furnish a bond in an amount~~
17 ~~determined by the director.~~

18 (c) A bond required by this section must be:

- 19 (1) payable to the state;
- 20 (2) conditioned upon the faithful performance of the employee's
- 21 duties;
- 22 (3) subject to the approval of the insurance commissioner; and
- 23 (4) filed in the office of the secretary of state.

24 (d) The premiums for a bond required by this section shall be paid
25 from the money of the division.

26 (e) The division may secure a standard form blanket bond or crime
27 insurance policy endorsed to include faithful performance that covers
28 all or any part of the employees of the division. A blanket bond or
29 crime insurance policy secured by the division under this subsection
30 must be in an amount of at least fifty thousand dollars (\$50,000).

31 (f) The commissioner of insurance shall prescribe the form of the
32 bonds or crime policies required by this section.

33 SECTION 23. **An emergency is declared for this act.**

